

1 COME NOW Defendants Credit Payment Services, Inc. f/k/a MyCashNow.com, Inc.
2 ("CPS"), Pioneer Services ("Pioneer"), LeadPile LLC ("LeadPile"), and Enova International, Inc.
3 (Enova) (collectively, "Defendants"), by and through their respective counsel, pursuant to Civil
4 Local Rule 10-5, and hereby submit this Motion for leave to file certain documents under seal in
5 connection with Defendants' Reply to Second Joint Motion to Extend the Deadlines for Discovery,
6 Dispositive Motions, and Proposed Joint Pretrial Order. Further, Defendants state as follows:

7 1. A Stipulated Protective Order was entered in this case on January 11, 2013. (Dkt. 32),
8 to provide guidelines regarding the exchange of confidential information between the Plaintiff and
9 all Defendants (the "Parties"). A First Amended Stipulated Protective Order was entered in this
10 case on January 30, 2014 (Doc. 145) to add provisions for highly confidential information
11 exchanged between the Parties (together, Doc 32 and Doc 145 are hereafter referred to as (the
12 "Protective Order").

13 2. Defendants seek to file under seal pursuant to Civil L.R. 10-5 Exhibit 3 to the
14 Declaration of Gregory T. Wolf in Support of Defendants' Defendants' Reply to Second Joint
15 Motion to Extend the Deadlines for Discovery, Dispositive Motions, and Proposed Joint Pretrial
16 Order (the "Wolf Decl."), further described as the deposition transcript containing testimony of
17 Plaintiff Flemming Kristensen, taken January 21, 2014 in this litigation. This deposition transcript
18 was designated as Confidential pursuant to the Protective Order, and as such, this document is
19 requested to be filed under seal.

20 3. The document in paragraph 2 above has been designated as "Confidential" pursuant to
21 the Protective Order because it contains confidential and proprietary business information. The
22 Protective Order contemplates that confidential, proprietary, or private information may be
23 disclosed during the course of discovery, and that the Parties shall follow the procedures set forth
24 in Civil Local Rule 10-5 for filing confidential documents under seal.

25 4. Protective orders and filings under seal are "the primary means by which the courts
26 ensure full disclosure of relevant information, while still preserving the parties' (and third parties')
27 legitimate expectation that confidential business information, proprietary technology and trade
28 secrets will not be publicly disseminated." *In re Adobe Sys., Inc., Sec. Litig.*, 141 F.R.D. 155, 161-

62 (N.D. Cal. 1992). The party seeking to seal documents attached to a nondispositive motion must only demonstrate “good cause,” as opposed to the “compelling reasons” standard for documents attached to dispositive motions, because “the cognizable public interest in judicial records that underlies the compelling reasons standard does not exist for documents produced between private litigants.” *Golden Boy Promotions, Inc. v. Top Rank, Inc.*, No. 10-CV-01619-RLH, 2011 WL 686362, at *1 (D. Nev. Feb. 17, 2011).

5. Additionally, when a district court grants a protective order to seal documents during discovery, “it already has determined that good cause exists to protect this information from being disclosed to the public by balancing the needs for discovery against the need for confidentiality.” *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir. 2002)).

6. Further, a court may order the sealing of court records when they contain confidential or otherwise sensitive business information. *IMAX Corp. v. Cinema Tech, Inc.*, 152 F.3d 1161, 1168 (9th Cir. 1998) (noting that confidential and proprietary business information is “to be filed under seal.”); *In re Dual-Deck Video Cassette Recorder Antitrust Litigation*, 10 F.3d 693, 694 (9th Cir. 1993). (stating that it “is common now in business litigation” to seal confidential business information by a stipulated protective order).

7. Good cause exists for allowing Defendants to file the above-referenced exhibit under seal in order to avoid disclosure of confidential or proprietary business information; because the subject document has been designated as “Confidential” pursuant to the Protective Order entered into by the Parties; and because the document was produced or generated during discovery subject to the same Protective Order.

8. Pursuant to Local Rule 10-5 and the District of Nevada’s ECF Filing Procedures, contemporaneously with the filing of this Motion, Defendants will file the exhibits referenced in paragraph 2 above under seal and will serve a paper copy on all parties, in addition to delivering a paper copy to this Court.

WHEREFORE, Defendants respectfully requests that this Court enter an Order granting Defendants' Motion for Leave to File Document Under Seal.

1 DATED: May 28, 2014

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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that on May 28, 2014, I caused the above and foregoing document entitled MOTION FOR LEAVE TO FILE CERTAIN DOCUMENTS UNDER SEAL to be served on all counsel of record through the Court's CM/ECF system.

/s/ Gregory T. Wolf

An Attorney for Defendants